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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,246	09/30/2003	Daisuke Hata	24316SUS2DIV	2833
22850 7590 02/04/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER JERABEK, KELLY L				
ART UNIT 2622		PAPER NUMBER		
NOTIFICATION DATE 02/04/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/673,246

Applicant(s)

HATA, DAISUKE

Examiner

KELLY L. JERABEK

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5, 10 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 10 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/196,620.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 1/27/2009 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5, 10 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent Application Laid Open No. JP 06-0014236.

Re claims 5, 10 and 15, JP 06-0014236 discloses an automatic focusing device for a digital camera, a method for operating an automatic focusing device for a digital camera, and a computer readable medium for storing computer instructions for an automatic focusing device for a digital camera, comprising: an optical system including a focusing lens system (1) (page 1, paragraph 17; figure 7); an imaging device (5) which receives a light flux from an object to be photographed, the received light flux being passed through the optical system (1) to form an image of the object, and converts the received light flux into an output image signal (figure 7); analog-to-digital converting means (7) for converting the image signal to output digital image data (figure 7); automatic exposure (AE) evaluation value outputting means for outputting luminance data according to the digital image data as an AE evaluation value (integrator 101 calculates a value Y by integrating image signals and based on the value Y, an optimal exposure amount A for a photographing subject in the distance-surveying frame is calculated in step S4) (page 1, paragraph 19); automatic focusing (AF) evaluation value outputting means for integrating high frequency components of luminance data of image data in an AF area (a changed distance-surveying frame in step S7) and outputting resulting data as an AF evaluation value (an AF operation is performed in the current distance surveying frame based on the calculated exposure amount A) (page 1, paragraphs 18-21); AF evaluation value sampling means for enabling the AF evaluation value outputting means to sample AF evaluation values output by the AF evaluation value outputting means while moving the focusing lens system (1) (an AF operation is performed in the current distance surveying frame based on the calculated exposure

amount A) (page 1, paragraphs 18-21); focusing lens driving means (lens drive motor 2) for determining if the device is in focus based upon a result of sampling the AF evaluation values and driving the focusing lens system (1) to a focusing position when the device is not in focus (lens drive motor 2 drives the AF lens to a focusing position in accordance with the calculated AF values) (page 1, paragraph 20, page 2, paragraph 22); AE control means performing an AE control operation in accordance with the AE evaluation value with respect to an AE area (initial distance surveying frame), which is output by the AE evaluation outputting means (page 2, paragraph 19; steps S2-S4); and AE setting means for performing an AE operation for an AF area (distance surveying frame changed until the high brightness portion is not found in step S7) in accordance with an AE evaluation value for the AF area (changed distance surveying frame), independently from the AE control operation by the AE control means (when a high brightness portion is found, the distance surveying frame is changed in step S7, and the calculation of the value Y and finding of the high brightness portion are performed returning to the steps S2 to S5. The distance surveying frame is changed until the high brightness portion is not found in step S7) (page 2, paragraphs 20-21), wherein, an AF operation is executed after the AE operation for the AF area is performed by the AE setting means for the AF area (when the high brightness portion is not found, the AF operation is performed in the current distance surveying frame based on the calculated exposure amount) (page 1, paragraphs 19-20, page 2, paragraph 22).

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is **(571) 272-7312**. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached at **(571) 272-7593**. The fax phone number for submitting all Official communications is **(571) 273-7300**. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at (571) 273-7312.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kelly L. Jerabek/

Patent Examiner, Art Unit 2622

